

ruling power. The phrase is used in the Constitution of Maryland in 1776—and no doubt the framers of that Constitution in separating from Great Britain and dissolving the tie of allegiance they had acknowledged to George III, deemed it necessary that there should be a supreme authority to which allegiance should be due—and they substituted the State of Maryland for George III in the oath of allegiance. And although the Convention of 1850, composed of able men, retained that phrase, they retained it in the form in which it was adopted in 1776, of allegiance *to the State of Maryland and not to the Constitution and laws of Maryland*.

With reference to this whole subject, to show that the term allegiance is inapplicable to our system of government, I beg leave to read a synopsis of the doctrine as contained in the argument of three eminent counsel, Ingersoll, Dallas and Du Ponceau, in 3 Dallas.

“With this law, however, human institutions have often been at variance; and no institutions more than the *feudal system*, which made the tyranny of arms the basis of society; chained men to the soil on which they were born; and converted the bulk of mankind into the vassals or slaves of a lord or superior. From the *feudal system* sprung the law of *allegiance*; which pursuing the nature of its origin, rests on *lands*; for when lands were *all* held of the crown, then the oath of allegiance became appropriate: It was the tenure of the tenant or vassal. [Black. Com. 366.] The oath of *fealty* and the ancient oath of allegiance was almost the same; both resting on lands; both designating the person to whom service should be rendered; though the one makes an exception as to the superior lord, while the other is an obligation of fidelity against all men. [2 Black. Com. 53, Pal. 140.] *Service*, therefore, was also an inseparable concomitant of *fealty*, as well as of *allegiance*. The oath of *fealty* could not be violated without loss of lands; and as all lands were held mediately or immediately of the sovereign, a violation of the oath of allegiance was in fact a voluntary submission to a state of outlawry. Hence arose the doctrine of perpetual and universal allegiance. When, however, the light of reason was shed upon the human mind the intercourse of men became more general and more liberal; the *military* was gradually changed to *commercial* state; and the laws were found a better protection for persons and property than arms. But even while the practical administration of government was thus reformed, some portion of the ancient theory was preserved; and among other things, the doctrine of perpetual allegiance remained with the fictitious tenure of all lands from the Crown to support it. Yet, it is to be remembered, that whether in its *real origin* or in its artificial state, *allegiance* as well as *fealty* rests upon *lands*, and it is due to persons. Not so

with respect to *citizenship* which has arisen from the dissolution of the feudal system; and is a substitute for allegiance, corresponding with the new order of things. Allegiance and citizenship differ indeed in almost every characteristic. Citizenship is the effect of compact; allegiance is the offspring of power and necessity. Citizenship is a political tie; allegiance is a territorial tenure. Citizenship is the charter of equality; allegiance is a badge of inferiority. Citizenship is constitutional; allegiance is personal. Citizenship is freedom; allegiance is servitude. Citizenship is communicable; allegiance is repulsive. Citizenship may be relinquished; allegiance is perpetual. With such essential differences, the doctrine of allegiance is inapplicable to a system of citizenship, which it can neither serve to control nor to elucidate.”

One would suppose that if there was any place in which this doctrine of allegiance could be found, if it was in accordance with the intent of the framers of the Constitution of the United States, it would be in the Constitution itself.

Is there any requisition in any oath of office, that any officer shall bear allegiance to the Government of the United States or to the people of the United States? for that would be more appropriate. If allegiance is due at all to any party except the individual State of which the party is a citizen, it is due to the whole people of the United States, upon the very doctrine and authority which the gentleman insisted upon, that the Constitution originates in the will of the people of the whole United States, as one homogeneous mass, and not of the people of the several States. If that doctrine be true, then allegiance or obedience being due to the paramount authority, it is due to the people of the United States. Look at the requisitions which are made in the Constitution of the United States. What is the oath which the President is required to make? It is to preserve, protect and defend the Constitution of the United States. What is the oath that is required of all civil and judicial officers of the several States, to secure fidelity from them to the supreme law of the land? It is that they will support the Constitution of the United States. That is what the framers of the Constitution deemed to be the extent of the obligation, as they made it the solemn form of the oath, to support the Constitution of the United States. There is therefore nothing in the Constitution of the United States to justify the idea contended for in this article. There is no claim in the Constitution to paramount allegiance.

I most respectfully submit to any gentleman who has read the debates in the Convention that framed the Constitution of the United States, or who has read the debates in the several Conventions of the States that considered and adopted the Federal Constitution, if anywhere, from the first page to the last, he